



The Scottish Parliament  
Pàrlamaid na h-Alba

## Criminal Justice Committee

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The Scottish Government  
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Thursday, 29 June 2023

Dear Minister,

### **Fireworks and Pyrotechnic Articles (Scotland) Act 2022 – Offences around the possession of prohibited articles**

Thank you for your letter of 3 May responding to the Committee's most recent letter on the implementation of the provisions of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 ('the 2022 Act').

The Committee [considered your letter](#) at its meeting on Wednesday 21 June and the [Official Report of that consideration](#) is available online. The Committee agreed that your letter was very helpful but is seeking clarification on the following issues.

Your letter refers to the detention by the police of someone found to be in possession of prohibited articles under Section 41 the 2022 Act, who is in the vicinity of a designated sporting or music venue. You state:

“In addition, if released without charge under ‘investigative liberation,’ an individual may be given certain rules to follow (such as telling the person not to go to a certain place or speak to certain people) for a set period of time.”

Can you specify the relevant legislation that contains the “rules” you refer to when an individual is released by the police under ‘investigative liberation’? Are you referring to Section 16 of the Criminal Justice (Scotland) Act 2016?

Furthermore, on the issue of the use of lifetime Football Banning Orders (FBOs), it would be helpful to have some further clarification.

It is our understanding that FBOs can only be utilised if the individual found to be in possession of prohibited articles is in breach of [Section 51](#) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 in terms of conduct which was violent or disorderly.

Can you explain how you would expect an FBO to work if an individual is not desisting from a course of conduct such as seeking to take prohibited articles like fireworks or pyrotechnics into certain venues or events, i.e. they are not being violent or disorderly.

In these types of case, is it your view that an individual who is repeatedly found to be in possession of such prohibited articles would be considered to have reached the threshold of committing “violence or disorder” under the 2006 Act, if that individual had not actually used or discharged any of the prohibited articles?

If merely being found to be in possession of such prohibited articles does not constitute “violence or disorder” under the 2006 Act, does this mean it would not be possible for a court to impose a lifetime FBO on that individual under the 2006 Act?

If this were the case, would the Scottish Ministers consider amending the provisions of the 2006 Act to ensure being repeatedly found to be in possession of prohibited articles under the 2022 Act in the vicinity of a sporting venue does meet the threshold for allowing a lifetime FBO to be imposed on that individual?

A response to this letter by Monday 28 August 2023 would be appreciated.

I look forward to hearing from you.

Best wishes,

A handwritten signature in black ink that reads "Audrey N: cjh". The signature is written in a cursive, flowing style.

Audrey Nicoll MSP  
Convener, Criminal Justice Committee